

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

**COMMONWEALTH EDISON
COMPANY**

**Proposed general increase in
rates for delivery service.**

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Docket No. 05-0597

Direct Testimony of

Robert R. Stephens

On Behalf of

Illinois Industrial Energy Consumers

December 23, 2005
Project 8472



BRUBAKER & ASSOCIATES, INC.
ST. LOUIS, MO 63141-2000

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A My name is Robert R. Stephens. My business address is 1215 Fern Ridge Parkway,
3 Suite 208; St. Louis, Missouri 63141.

4 **Q PLEASE STATE YOUR OCCUPATION.**

5 A I am a consultant in the field of public utility regulation with Brubaker & Associates,
6 Inc. (BAI), energy, economic and regulatory consultants.

7 **Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

8 A This is summarized in Appendix A to my testimony.

9 **Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

10 A I am appearing on behalf of the Illinois Industrial Energy Consumers (IIEC). The IIEC
11 is an ad hoc group of industrial customers eligible to take power and energy or
12 delivery service from Commonwealth Edison Company (ComEd or Company).

13 **Q WHAT IS THE SUBJECT MATTER OF YOUR TESTIMONY?**

14 A In addition to introducing the other IIEC witnesses and the topics that they cover, I will
15 address:

- 16 1. ComEd's power procurement proposal for generation supply after 2006
17 and comment on the status of the requested pre-approval process in ICC
18 Docket No. 05-0159.
- 19 2. ComEd's proposed consolidation of four non-residential delivery service
20 rate classes above 1 MW into a single class, and a separate class for
21 customers taking service at 69 kV or higher voltage;
- 22 3. ComEd's proposed change in time period for measuring Maximum
23 Kilowatts Delivered (MKD) from peak period to a 24-hour basis;
- 24 4. Issues related to cogeneration customers; and
- 25 5. ComEd's proposed Rider RESALE.

26 The fact that I do not address an issue should not be interpreted as tacit
27 approval of any position taken by ComEd.

28 **Q WHAT OTHER WITNESSES ARE TESTIFYING ON BEHALF OF IIEC IN THIS**
29 **PROCEEDING?**

30 A My BAI associates, Alan Chalfant, Michael Gorman and Brian Janous, are also
31 testifying. Mr. Chalfant addresses issues related to ComEd's cost of service study,
32 particularly as it relates to the cost of serving the non-residential customer classes
33 with demands larger than 1 MW. He also addresses the Company's proposed levels
34 of Administrative and General expenses and General and Intangible Plant.

35 Mr. Gorman addresses ComEd's proposed return on equity, the appropriate
36 capital structure for a delivery service only company and the Company's proposed
37 use of an environmental cost recovery factor. Mr. Janous provides support to Mr.

38 Gorman with respect to comparing ComEd's business profile score to other
39 transmission and distribution utilities.

40 **Q PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

41 A 1. ComEd's proposed combination of four non-residential delivery service rate
42 classes into one basic rate class and an additional class applicable only to
43 customers served at 69 kV and higher voltage has dramatic and unjustified
44 impacts on customers 10 MW and larger. ComEd's proposal should be
45 rejected.

46 2. I do not object to the Commission allowing the combination of the first three
47 rate classes which ComEd proposes to combine into one Very Large Load
48 Delivery class, namely the 1-3 MW, 3-6 MW and 6-10 MW classes, which do
49 in fact have similar charges under the current tariff and appear to have similar
50 cost to serve, but I recommend the Commission retain the separate class
51 related to customers over 10 MW. The over 10 MW customers clearly pay
52 substantially different rates under the current tariffs, are served at different
53 cost and are the most dramatically impacted by the combination of classes.

54 3. The rates applicable to over 10 MW customers, both at standard voltage and
55 at high voltage (69 kV and higher) should be based on the current (taking
56 effect June 2006) rates and increased or decreased in proportion to ComEd's
57 overall revenue increase or decrease that results from the Commission's
58 determinations in this case. Through this approach, such customers would
59 pay their respective share of the increase (or decrease) and would not cause
60 any interclass shifts in cost responsibility that might otherwise occur through
61 ComEd's proposed rate design changes.

62 4. ComEd's proposed change in the definition of Maximum Kilowatts Delivered
63 (MKD) should be rejected in favor of the current definition. ComEd has
64 provided insufficient justification for making the change, and has not
65 addressed detriments associated with the change, such as dramatic and
66 indefinite cost increases for some customers, loss of beneficial impact of
67 customers who operate exclusively in off-peak periods and potential confusion
68 and increased customer operating costs introduced by its proposed change.

69 5. Rejection of ComEd's proposed change to the measurement of MKD will also
70 affect customers with cogeneration or self-generation on their premises.
71 However, such customers should also have the option to elect a Zero
72 Standard Service approach, such as that used by ComEd under its current
73 Rider ZSS, which it has proposed to modify to Rider ZSS7 - Zero Standard
74 Service 2007. Rider ZSS7 should be modified to reject its narrower
75 applicability than under Rider ZSS.

- 76 6. ComEd's proposed Rider RESALE – Allowance for Resale or Redistribution of
77 Electricity should be modified to clarify that all legitimate costs associated with
78 the resale or redistribution of electricity are allowed to be collected by
79 customers. I have recommended specific tariff language changes to
80 accomplish this result.

81 **Overview of ComEd's Power Procurement Case**

82 **Q PLEASE PROVIDE A BRIEF OVERVIEW OF COMED'S POWER PROCUREMENT**
83 **CASE.**

84 A In early 2005, ComEd filed with the Illinois Commerce Commission (ICC) a proposal
85 for approval of its chosen method for procuring power for its remaining generation
86 service customers once the current transition period has expired, on January 1, 2007.
87 This multi-faceted case is currently under review at the ICC in Docket No. 05-0159. I
88 am familiar with this case, having participated on behalf of the IIEC companies
89 intervened in that case.

90 In its case, ComEd essentially asked the Commission to pre-approve a
91 regulatory process for procuring power and recovering the procurement cost from
92 retail customers. The procurement process involved holding auctions for power
93 supplies to serve its various customer groups. If its process is approved and ComEd
94 follows the approved process, it would be allowed to collect from customers its
95 expenditures for power supply on a dollar-for-dollar basis, including an opportunity for
96 reconciliation of mismatches between payments and collections. Hence, ComEd
97 would not be subject to any regulatory disallowances, such as prudence
98 disallowances and changes in market costs of power from year to year would have
99 negligible impact on ComEd's bottom line. Hence, ComEd will have essentially
100 transferred all fuel cost, power procurement costs, and other operating risk

associated with generation supply from itself to customers and to wholesale generation suppliers in the market.

Q WHAT IS THE CURRENT STATUS OF DOCKET NO. 05-0159?

A As of the drafting of this testimony, the Administrative Law Judge has issued a Proposed Order and parties are in the process of drafting reply briefs on exceptions. The Commission is expected to rule on this Proposed Order some time in January 2006, as the tariffs are suspended only through January 24, 2006.

Q DOES THE PROPOSED ORDER RESOLVE THE ISSUE OF COMED'S POWER PROCUREMENT PRACTICES?

A No. The Proposed Order is not a final order of the Commission. However, if the Commission were to enter the Proposed Order as drafted, it would essentially be approving ComEd's process with modifications only to certain aspects. I would note the following statements in the Proposed Order:

Based on the record in this proceeding, the Commission believes that the proposed vertical tranche auction process, as modified herein, is reasonably designed to enable ComEd to procure power supply in a competitive and least-cost manner. In that regard, no alternatives were presented that represent a more viable approach for procuring power supply after December 31, 2006.

* * *

As indicated above, if the auction results are approved by the Commission at the close of the three-day review period, then ComEd should be entitled to a presumption that the supply obtained pursuant thereto was "prudently purchased." At the reconciliation proceedings, if ComEd shows that power purchases were made in accordance with the auction process, ComEd will be deemed to have made a prima facie showing of prudence within the meaning of Section 9-220.

(Proposed Order, Docket No. 05-0159 at pages 51 and 53).

As a result of this case, if ultimately resolved in a manner similar to that proposed by the Administrative Law Judge, and through ComEd's transfer of generating units to third parties and affiliates, ComEd has essentially removed itself from virtually all commodity-based supply risk, as it will be all but guaranteed recovery of its prudent purchases.

**ComEd's Proposed Consolidation of
Delivery Service Rate Classes Larger Than 1 MW**

**Q WHAT IS COMED'S PROPOSAL AS IT RELATES TO CUSTOMERS WITH
DEMANDS LARGER THAN 1 MW?**

A ComEd proposes to restructure the current four-class structure, as I explain below, into a single class under ComEd's proposed Rate RDS. This proposed new rate class is called "Very Large Delivery Load" class and contains a single set of charges for all customers in this new much larger class. In addition, ComEd proposes a single rate for high voltage customers, i.e., customers with service voltages of 69 kV or higher, that also is uniform across these four classes. In contrast, under current rates the net charge varies among the four classes as well.

The net effect of these rate consolidations, along with ComEd's proposed overall increase in revenue requirement, is to dramatically increase delivery service charges for the largest of these non-residential customers, namely the customers with demands of 10 MW or more. Table 1 below shows a comparison of current charges (to take effect in June 2006) for these large customers under ComEd's current Rate RCDS, as compared to ComEd's proposed 2007 rates under its Rate RDS proposal.

Table 1: Comparison of ComEd's Current and Proposed Rates – Standard Voltage ¹ Customers			
Customer Class	Current Distribution Facilities Charges (\$/kW)	Proposed 2007 Distribution Facilities Charges (\$/kW)	Percent Increase
Over 1,000 kW up to and including 3,000 kW	4.46	5.45	22%
Over 3,000 kW up to and including 6,000 kW	4.64	5.45	18%
Over 6,000 kW up to and including 10,000 kW	4.48	5.45	22%
Over 10,000 kW	2.34	5.45	133%

As can be seen from Table 1 above, customers with demands over 10 MW (10,000 kW) are impacted to a much greater degree than any of the three smaller classes.

Table 2 below shows a similar dramatic increase for the over 10 MW customer class, taking service at high voltage.

¹ "Standard voltage" refers to customers taking service at voltage below 69 kV. Customers taking service at 69 kV or higher are considered "high voltage" customers, consistent with ComEd proposed differentiation.

Table 2: Comparison of ComEd's Current and Proposed Rates – High Voltage Customers			
Customer Class	Current Distribution Facilities Charges – Net of Rider HVDS Credit ² (\$/kW)	Proposed 2007 Distribution Facilities Charges – HVDS Class (\$/kW)	Percent Change
Over 1,000 kW up to and including 3,000 kW	3.16	2.17	-31%
Over 3,000 kW up to and including 6,000 kW	3.34	2.17	-35%
Over 6,000 kW up to and including 10,000 kW	3.18	2.17	-32%
Over 10,000 kW	1.04	2.17	109%

157 As Table 2 above shows, the over 10 MW customers will see their rate more
158 than double, while the smaller customer groups get rate decreases.

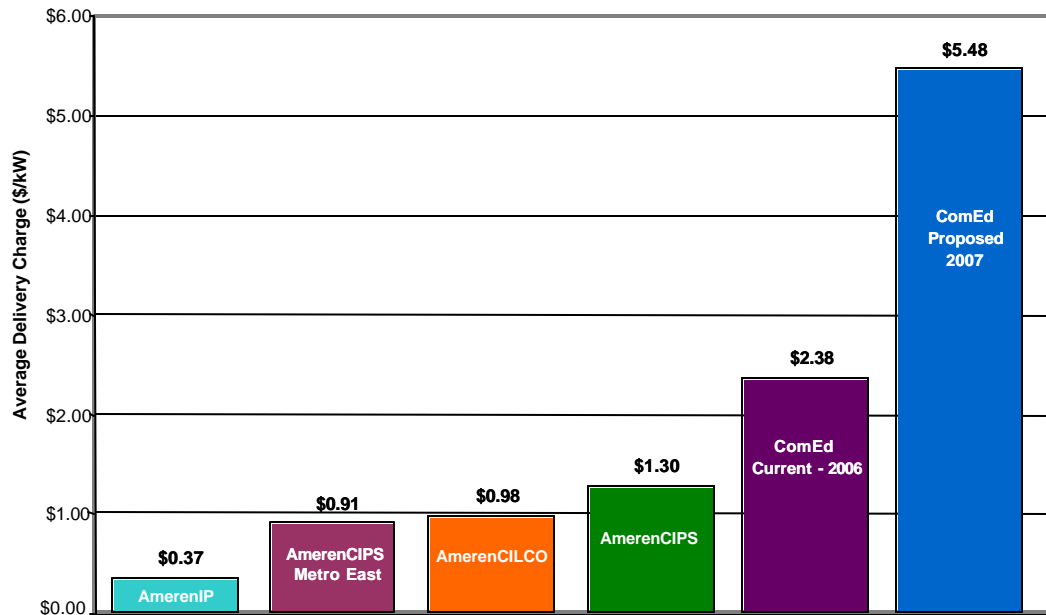
159 **Q HOW DO COMED'S CHARGES FOR DELIVERY SERVICE TO CUSTOMERS**
160 **OVER 10 MW COMPARE TO THOSE OF SIMILAR DELIVERY SERVICE**
161 **CUSTOMERS OF OTHER ILLINOIS DISTRIBUTION UTILITIES?**

162 A Using a hypothetical 20 MW customer for analysis, I have compared ComEd's current
163 and proposed delivery service charges to those of the other Illinois distribution utilities
164 that have customers taking delivery service (excluding the smallest utilities that have
165 no delivery service customers). Figure 1 below shows how ComEd's rates compare

² Current charges for high voltage customers reflect the standard Rate RCDS charge, combined with the Rider HVDS credit. Under proposed rates for high voltage customers, ComEd proposes to eliminate this two-step structure and implement a single HVDS charge.

to the other utilities, for such a customer taking service at standard voltage (below 69 kV).

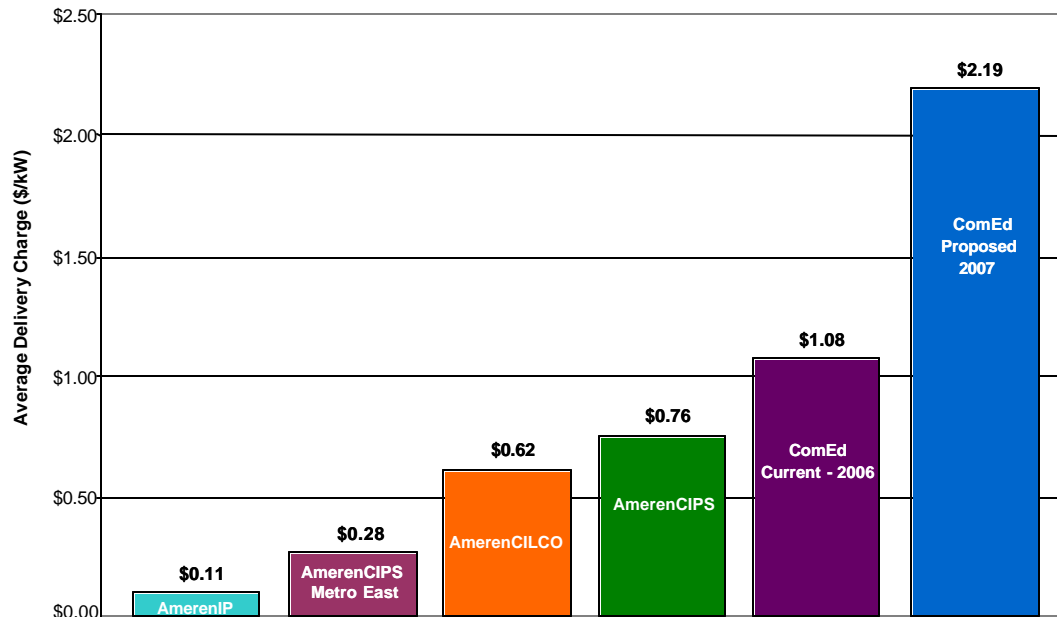
Figure 1: Average Delivery Charges of Illinois Delivery Utilities
Standard Voltage Customers (20MW)



As can be seen above, ComEd's current charges are already significantly higher than those of the other four utilities and ComEd's proposed 2007 charges are dramatically higher.

Similar relationships can be seen in charges for customers taking service at high voltage (higher than 69 kV), as shown in Figure 2, below.

Figure 2: Average Delivery Charges of Illinois Delivery Utilities
High Voltage Customers (20MW)



The average delivery charges in Figures 1 and 2 are a combination of customer charges, metering charges, and usage-based delivery charges, in order to make the charges comparable. Taxes and other non-delivery service related charges are excluded from the analysis.

Q HAS COMED ADDRESSED THE DRAMATIC INCREASE TO ITS LARGEST CUSTOMERS IN ITS TESTIMONY IN THIS CASE?

A No, ComEd ignores this impact. ComEd generally addresses large customers only as a group under its proposed Very Large Load Delivery Class and its High Voltage Delivery Class. The proposed combination of classes is addressed within the testimony of ComEd witness Paul Crumrine.

183 **Q WHAT IS MR. CRUMRINE'S TESTIMONY SUPPORTING THE COMED**
184 **PROPOSED COMBINATION OF THESE CLASSES?**

185 A ComEd's entire justification appears to be contained at lines 793-816 of
186 Mr. Crumrine's testimony, ComEd Exhibit 9.0. Briefly, Mr. Crumrine states that the
187 charges currently in effect for the classes that are proposed to be combined are very
188 similar. He opines that this indicates that the costs of providing delivery services to
189 these customers are very similar.

190 His second reason is that some of the granularity that currently exists in
191 ComEd's rate structure is due to the application of Customer Transition Charges
192 (CTCs), which will no longer be applicable after December 31, 2006.

193 **Q ARE EITHER OF THESE FACTORS SUFFICIENT TO JUSTIFY THE DRAMATIC**
194 **INCREASES PROPOSED TO THE DELIVERY SERVICE RATES FOR**
195 **CUSTOMERS OVER 10 MW?**

196 A No. In fact, those factors do not even apply to these groups. To wit, his first reason
197 is that the charges are very similar. However, as can be seen in Tables 1 and 2
198 above, the charges for the over 10 MW class are significantly different from (around
199 one-half of) the levels of the charges for the three other classes ComEd is proposing
200 to group with the over 10 MW customers. Hence, this reasoning clearly does not
201 apply in the case of over 10 MW customers.

202 In addition, Mr. Chalfant has reviewed ComEd's cost of service information to
203 determine whether the costs were essentially the same for all four classes. As he
204 explains in IIEC Exhibit 2.0, the cost of serving the over 10 MW customers is
205 significantly lower than that of serving the other three classes.

206 Mr. Crumrine's second reason, related to granularity due to the application of
207 CTCs, also does not provide a valid rationale for the grouping of customers and
208 associated dramatic increase for over 10 MW customers. This is because there were
209 no logical divisions in the current class structure necessitated by CTC calculations.

210 **Q PLEASE EXPLAIN.**

211 A The 1997 restructuring legislation provided for calculations of individual transition
212 charges for customers larger than 3 MW in ComEd's territory. However, this alone
213 would not necessarily require that a separate delivery service class be established at
214 3 MW, or at any other level. In contrast, ComEd established class separations at 1
215 MW, 3 MW, 6 MW and 10 MW in its initial delivery service rates. Furthermore, after
216 the 2001 delivery service rate case, Docket No. 01-0423, where ComEd continued its
217 four-class structure, the 3 MW distinction was no longer even applicable, since
218 ComEd began providing individual CTC calculations for customers all the way down
219 to 400 kW in demand.

220 Since CTCs could not have provided the basis for ComEd's original
221 establishment of the four classes of customers larger than 1 MW, the elimination of
222 CTC concerns cannot provide a valid rationale for combining these classes.

223 Hence, the (presumably cost-based) rationale that existed for establishing the
224 four classes prior to the current case appears to continue to support separate rates
225 for customers larger than 10 MW.

226 **Q DOES THE VERY LARGE LOAD CUSTOMER CLASS CORRESPOND TO THE**
227 **CUSTOMER CLASSES PROPOSED BY COMED FOR THE PURPOSES OF**
228 **PROCURING POWER IN DOCKET NO. 05-0159?**

229 A No. As previously mentioned, I am familiar with ComEd's power procurement
230 proposal in Docket No. 05-0159. ComEd proposes to combine customer loads from
231 400 kW up to 3 MW for the purposes of providing an annual fixed price product under
232 the annual price auction and to provide hourly-only pricing for customers larger than
233 3 MW. If ComEd were proposing to align its delivery service rates with its customer
234 groupings for the purposes of procuring power, which it apparently is not, this would
235 suggest customer delivery service class divisions at 400 kW and at 3 MW, not a
236 lumping together of all customers 1 MW and larger of similar voltage. Hence, this
237 cannot be a valid reason for combining these four classes and dramatically increasing
238 rates to over 10 MW customers.

239 **Q HAS COMED ASSERTED IN THE PAST THAT ITS CURRENT FOUR-CLASS**
240 **STRUCTURE IS DEFICIENT?**

241 A No, the current four-class structure was proposed by ComEd when it established
242 delivery service rates prior to open access in Illinois.

243 Indeed, in the case where ComEd's current delivery rate class structure was
244 developed, Docket No. 99-0117, ComEd vigorously opposed one of the intervenors'
245 proposals to collapse several of ComEd's proposed delivery service rate classes into
246 one, as ComEd proposes in this case. ComEd witness Crumrine stated at pages 23-
247 24 of his surrebuttal testimony in that docket:

248 In addition, changing the definition of customer classes would
249 have dramatic rate implications. It would affect customers'
250 charges in a way that I believe would have a negative impact on

251 competition. Dr. O'Connor's fall-back position would accept six
252 general service rate classes being collapsed into a single class
253 equivalent to the bundled service Rate 6. As shown in ComEd Ex.
254 9.3, the distribution rates proposed by ComEd for the first six
255 classes drop dramatically on a cents per kilowatt hour basis as
256 one moves from the smaller to the larger customer classes. In
257 order to combine those six classes into a single class, the charges
258 would have to be weight-averaged to create a single set of
259 charges. **The inescapable mathematical result of that process**
260 **would be to systematically lower the rates for those at the**
261 **smaller end of the spectrum and increase rates for customers**
262 **at the higher end of the spectrum.** I do not believe that this
263 level of revenue shifting and cost shifting is appropriate. (ComEd
264 Ex. 46.0 in Docket No. 99-0117, emphasis added).

265 While Mr. Crumrine's testimony in Docket No. 99-0117 appears to relate to
266 customers in the Rate 6 range, ComEd's proposal in this case for the Very Large
267 Load Delivery Class aligns directly with bundled service Rate 6L (1 MW and over)
268 and the concepts he outlines should be applied consistently with respect to the large
269 non-residential rate classes. With regard to customers over 10 MW, in this case, Mr.
270 Crumrine violates the cost-shifting concepts in precisely the manner he warned
271 against in Docket No. 99-0117.

272 Also, in Docket No. 01-0423, ComEd's most recent delivery service rate case,
273 ComEd proposed to continue the four-class structure and performed its cost of
274 service studies and rate design activities accordingly. This four-class structure was
275 approved as reasonable by the Commission.³

³ ComEd also implemented its Rider HVDS in Docket No. 01-0423 to apply to customers in these classes who receive service at 69 kV or higher voltage.

276 **Q HAS COMED PROVIDED A COST OF SERVICE STUDY IN THIS CASE THAT**
277 **DETERMINES THE COST ASSOCIATED WITH SERVING THE FOUR CURRENT**
278 **CUSTOMER CLASSES?**

279 A No, ComEd unilaterally chose not to provide this information in the current case.
280 ComEd's cost of service study information, presented by ComEd witness Heintz in
281 ComEd Exhibit 11.0, presumes the combined class structure ComEd proposes in this
282 case. As discussed by my associate, Mr. Chalfant, ComEd indicated in response to
283 IIEC Data Request 3-6 that it does not have a cost of service study using the same
284 customer classes as currently exist and refused to provide such a study.

285 At my request, Mr. Chalfant has modified the ComEd study to determine if the
286 costs vary. As he indicates, the costs vary significantly with respect to the over 10
287 MW group.

288 **Q WHAT IS YOUR RECOMMENDATION IN THIS REGARD?**

289 A ComEd has not justified its proposed combination of four classes into one basic rate
290 class and an additional class, applicable only to customers served at 69 kV and
291 higher. By unilaterally refusing to provide a current cost of service study using the
292 existing class structure, ComEd has put the Commission in a difficult position with
293 respect to establishing reasonable rates for these classes. Because of this, I do not
294 object to allowing the combination of the first three classes shown in Table 1 above,
295 that is, the 1-3 MW, 3-6 MW, and 6-10 MW classes, which do in fact have similar
296 charges under the current tariff and appear to have similar costs to serve, according
297 to Mr. Chalfant's analysis, I also recommend ComEd retain the separate class related
298 to customers over 10 MW. These customers clearly pay substantially different rates

under the current tariffs, are served at significantly different cost and are the most dramatically impacted by the combination of classes.

In setting the separate rates for standard voltage customers for the greater than 10 MW class, I recommend the Commission start with current (June 2006) rates, and increase or decrease the charges in proportion to ComEd's overall revenue increase or decrease that results from the Commission's determinations in this case. The current distribution facilities charge is shown in Table 1, above. For the HVDS class charge for these customers, the current net charge of \$1.04 per kW (combination of Rate RCDS and Rider HVDS as shown on Table 2, above) should be the base charge to be increased or decreased. Through this approach, such customers would pay their respective share of the increase (or decrease) and would not cause any interclass shifts in cost responsibility that might otherwise occur through ComEd's proposed rate design changes.

Change in Definition of Maximum Kilowatts Delivered

Q PLEASE EXPLAIN COMED'S PROPOSAL AS IT RELATES TO THE CHANGE IN MAXIMUM KILOWATTS DELIVERED (MKD).

A ComEd's proposal is described by Mr. Crumrine at page 45 of ComEd Exhibit 9.0, as follows:

ComEd is proposing that the maximum billing demand for certain demand-based tariffs be determined using a 24-hour period -- not just the peak period as it is currently determined.

ComEd claims this change is appropriate because this definition was created when ComEd was a vertically integrated company and the focus of cost recovery was on generation costs. Mr. Crumrine does not explain why ComEd originally

323 established delivery service charges that were related to recovering generation costs.
324 Mr. Crumrine opines that if customers reduce their distribution charges by operating
325 outside the peak period, the associated costs customers succeed in avoiding would
326 have to be borne by the remaining customers on the system.

327 **Q WHAT IS THE IMPACT OF COMED'S PROPOSED CHANGE IN THE DEMAND**
328 **MEASUREMENT?**

329 A For some customers, this change in definition will have only a modest impact, since
330 their demands are often established during the on-peak periods anyway. However,
331 for other customers, which operate primarily in off-peak periods, this change in MKD
332 definition can present a dramatic and indefinite cost increase.

333 **Q HAS COMED TESTIFIED IN THE PAST THAT ITS CURRENT ON-PEAK MKD**
334 **DEFINITION IS DEFICIENT WITH RESPECT TO CHARGING FOR DELIVERY**
335 **SERVICE?**

336 A No. ComEd's current MKD definition was its own creation, and was deemed just and
337 reasonable by the Commission in the prior two delivery service cases.

338 **Q HAS COMED PROVIDED EVIDENCE ON THE IMPACT OF THIS CHANGE IN**
339 **DEFINITION ON CUSTOMERS' COSTS?**

340 A No, it has not provided such evidence

341 **Q HAS COMED PROVIDED EVIDENCE OF THE BENEFICIAL IMPACT OF OFF-**
342 **PEAK OPERATION BY CUSTOMERS, ON NETWORK DISTRIBUTION**
343 **FACILITIES?**

344 A No. Totally absent in this case is any analysis of the effect on facilities that are part of
345 the distribution network and used by multiple customers, or the fact that load diversity
346 (use of the system at differing times) can affect the sizing and cost of network
347 facilities, both transmission and distribution. Customers who operate primarily in off-
348 peak periods benefit the network by not contributing during the general times of
349 network stress. These beneficial impacts need to be considered before ComEd
350 imposes a rate design that discourages off-peak operation.

351 **Q HAS COMED ADDRESSED THE FACT THAT CUSTOMERS ARE FAMILIAR WITH**
352 **THE CURRENT DEMAND MEASUREMENT PERIODS AND THAT A CHANGE**
353 **COULD INTRODUCE CONFUSION OR INCREASED CUSTOMER OPERATING**
354 **COSTS?**

355 A No. ComEd seems to have totally ignored this concern. ComEd historically has
356 provided price signals to encourage off-peak usage, through establishment of on-
357 peak periods and charges. ComEd maintained those elements for many years
358 through its bundled service rates, and for several years, i.e., since 1999, for delivery
359 services. Those customers who manage their operations in response to these price
360 signals, and made substantial investments to do so, will lose part of the financial
361 benefit associated with their response to these price signals as a result of ComEd's
362 proposed change in demand measurement.

363 **Q WHAT IS YOUR RECOMMENDATION?**

364 A I recommend that the proposed change in definition of MKD be rejected in favor of
365 the current definition. ComEd has provided insufficient justification for making a
366 change and has not addressed any of the detriments associated with such a change,
367 including those described above.

368 **Treatment of Cogeneration and Self-Generation Customers**

369 **Q HOW DOES COMED PROPOSE TO CHARGE FOR DELIVERY SERVICE TO**
370 **CUSTOMERS WHO OWN THEIR OWN GENERATION OR HAVE GENERATION**
371 **ON THEIR PREMISES?**

372 A ComEd currently has two different approaches for charging for delivery service to
373 these customers. For some customers, they charge pursuant to Rider ZSS – Zero
374 Standard Service, which ComEd proposes to replace with Rider ZSS7 – Zero
375 Standard Service 2007. For other customers, ComEd proposes to charge for delivery
376 service based on a customer's MKD in any month, as if the customer did not have
377 generation.

378 **Q PLEASE COMMENT ON COMED'S APPROACH.**

379 A ComEd's proposed change in the definition in the MKD, discussed above, can have a
380 significant cost impact on self-generation or cogeneration customers who require
381 delivery service in any month to deliver power to replace the output of a generating
382 unit. Hence, ComEd's proposal would have a disproportionately large impact on
383 customers, whose outages are more prevalent during off-peak periods, whether
384 planned (to save on power costs) or unexpected.

Q WHAT DO YOU RECOMMEND?

A Much of this concern would be ameliorated by maintaining the current demand period definition for establishing MKD, which I discussed above. However, another logical approach would be to modify proposed Rider ZSS7 – Zero Standard Service 2007 eligibility to include all customers with generation. In that way, customers that are concerned about impacts of the change in demand definition or are otherwise improperly charged on a class average basis, could apply to have their costs measured more directly and billed through the Zero Standard Service approach. This option would be cost based and, in certain instances, could foster appropriate price signals.

Unfortunately, it appears that ComEd's proposed Rider ZSS7 may be overly restrictive in its applicability.

Q HAVE YOU REVIEWED COMED'S PROPOSED RIDER ZSS7?

A Yes. Rider ZSS7 contains restrictions that are not included in current Rider ZSS.⁴ First, ComEd would now require the customer to be the owner or operator of the generation facilities supplying power to the customer. The current Rider ZSS allows the customer to use "energy lawfully supplied by another party." (ComEd Ex. 10.2, Sheet 221). ComEd has not justified its new restriction and the restriction should be removed.

Second, ComEd has proposed that the generation facilities supplying the customer be subject to the Operating Agreement, the applicable Reliability Assurance

⁴ According to ComEd's responses to data requests CNE 1.33 and CNE 1.34, 12 of the 43 (28%) current Rider ZSS customers will not be eligible to take service under Rider ZSS7.

406 Agreement, and the Open Access Transmission Tariff (OATT) of the PJM
407 Interconnection, L.L.C. (PJM). This provision is not in the current Rider ZSS and is
408 unnecessary. To the extent a customer's generation is located behind the meter, it is
409 not transmitting power over the ComEd transmission and distribution systems.
410 Generation is not subject to the PJM agreements and tariffs except to the extent it
411 utilizes ComEd's transmission and distribution systems. In the latter case, the PJM
412 agreements and tariffs will apply pursuant to the PJM service agreement of the party
413 taking transmission and/or wholesale distribution service from PJM to effect the
414 delivery of power from the generator. The language pertaining to PJM agreements
415 and tariffs should be removed from Rider ZSS7.

416 **Q DO YOU HAVE A RECOMMENDATION FOR THE COMMISSION?**

417 A Yes. Section (1) under "Applicability" under ComEd's proposed Rider ZSS7 should
418 be replaced in its entirety with Section (1) of "Applicability" under ComEd's existing
419 Rider ZSS. This will address the concerns I have presented and will retain the rider
420 as an option for applicable self-generation or cogeneration customers.

421 **Rider RESALE**

422 **Q PLEASE EXPLAIN YOUR UNDERSTANDING OF COMED'S PROPOSED RIDER**
423 **RESALE – ALLOWANCE FOR RESALE OR REDISTRIBUTION OF ELECTRICITY.**

424 A My understanding is that ComEd proposes Rider RESALE to replace current Rider 12
425 – Conditions of Resale or Distribution of Electricity by the Customer to Third Persons
426 as part of its overall restructuring of its rate book for operating in the post-2006

427 environment. ComEd addresses this in testimony at page 27, lines 603-612, of
428 ComEd Exhibit 9.0 (Crumrine). Mr. Crumrine testifies as follows:

429 The provision for restrictions on resale of electricity is revised to
430 clarify that a reseller must resell electricity at a rate that does not
431 exceed the average cost per kilowatt-hour that the reseller incurs
432 for the electricity it resells.

433 **Q DO YOU HAVE ANY CONCERNS WITH THE RIDER RESALE TARIFF AS**
434 **PROPOSED BY COMED?**

435 A Yes, I am concerned about potential issues of contention that could arise out of the
436 language related to resale restrictions in tariff. Specifically, the language in the tariff
437 states as follows:

438 A retail customer that resells electric power and energy to third
439 persons must resell such electric power and energy at a rate that
440 does not exceed the average cost per kilowatt-hour that such retail
441 customer incurs for the electric power and energy it resells,
442 including all taxes and other adders applicable to the electric
443 power and energy provided to such retail customer. (Proposed
444 Original Sheet No. 468).

445 My concern is about confusion over the phrase “other adders applicable to the
446 electric power and energy provided to such retail customer.” The nature of these
447 adders is not specified in the tariff. This lack of specificity has the potential to either
448 (1) create unnecessary confusion about what can be recovered by resellers, or (2)
449 not allow resellers to recover legitimate costs associated with resale or redistribution
450 of the power to the end-use customers.

451 **Q HAS COMED RENDERED AN OPINION AS TO WHAT THE TERM “ADDERS” IS**
452 **INTENDED TO INCLUDE?**

453 A Yes, it clarified this point in response to a data request. A copy of this data request is
454 attached to this testimony as IIEC Exhibit 1.1 and is ComEd's response to BOMA
455 1.08.

456 As can be seen, ComEd intends for the term “adders” to mean costs that the
457 retail customer incurs which are in addition to delivery and commodity supply charges
458 that are necessary in providing electric service to third persons and such costs would
459 be deemed reasonable by the Illinois Commerce Commission. ComEd then goes on
460 to list some, but not all, examples of costs which could be included in such adders.
461 Of particular note is Item vi. which is reproduced below:

462 Costs incurred by the retail customer to enable the retail customer
463 to resell the electric power and energy to third persons. These
464 costs may include, but are not limited to, the cost of reading
465 electric meters and mailing electric service invoices to third
466 persons.

467 **Q DOES COMED’S INTERPRETATION SATISFY YOUR CONCERNS WITH**
468 **RESPECT TO RIDER RESALE?**

469 A No. First and foremost, this interpretation is only a response to a data request in this
470 docket. For the interpretation to have any effect, it needs to be a part of the tariff
471 which will be approved and maintained by the Commission.

472 Second, the phrase “such costs would be deemed reasonable by the Illinois
473 Commerce Commission” introduces significant uncertainty, since no party, even the
474 present members of the Commission, has any way to know what may be deemed
475 reasonable by the Illinois Commerce Commission in the future.

476 Third, it is not clear how ComEd or anyone else would ensure compliance with
477 the tariff by resellers.

478 **Q WHAT DO YOU PROPOSE?**

479 A I propose that Rider RESALE be modified to clarify that all legitimate costs associated
480 with the resale or redistribution of electricity, are allowed to be collected by
481 customers. Specifically, I recommend that the paragraph titled "RESALE
482 RESTRICTIONS" be modified by adding the following to the end of the section:

483 Such "other adders" are intended to include costs that the retail
484 customer incurs which are in addition to delivery and commodity
485 supply charges that are necessary in providing electric service to
486 retail customers. Such adders may include, but are not limited to,
487 charges assessed by ComEd, as approved by the Illinois
488 Commerce Commission, and any other costs incurred by the retail
489 customer to enable it to resell the power and energy to third
490 persons, including, but not limited to, the cost of reading electric
491 meters, repair and replacement of any customer-owned electric
492 meters, arrangement of power supply through third-party suppliers
493 and preparation and mailing of electric service invoices to third
494 persons. Notwithstanding other provisions of this section, these
495 adders may be charged to the third person in a manner consistent
496 with their incurrence or on the basis of the mutual written
497 agreement of the retail customer and the third person.

498 This language, combined with the Regulatory Overview section already
499 proposed by ComEd in the tariff, should provide both resellers and third persons
500 adequate protections under a resale arrangement.

501 **Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

502 A Yes.

Qualifications of Robert Stephens

503 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

504 A Robert R. Stephens. My business address is 1215 Fern Ridge Parkway, Suite 208,
505 St. Louis, Missouri 63141.

506 **Q PLEASE STATE YOUR OCCUPATION.**

507 A I am a consultant in the field of public utility regulation with the firm of Brubaker &
508 Associates, Inc. (BAI), energy, economic and regulatory consultants.

509 **Q PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

510 A I graduated from Southern Illinois University at Carbondale in 1984 with a Bachelor of
511 Science degree in Engineering. During college, I was employed by Central Illinois
512 Public Service Company in the Gas Department. Upon graduation, I accepted a
513 position as a Mechanical Engineer at the Illinois Department of Energy and Natural
514 Resources. In the summer of 1986, I accepted a position as Energy Planner with City
515 Water, Light and Power, a municipal electric and water utility in Springfield, Illinois.
516 My duties centered on integrated resource planning and the design and
517 administration of load management programs.

518 From July 1989 to June 1994, I was employed as a Senior Economic Analyst
519 in the Planning and Operations Department of the Staff of the Illinois Commerce
520 Commission. In this position, I reviewed utility filings and prepared various reports
521 and testimony for use by the Commission. From June 1994 to August 1997, I worked
522 directly with a Commissioner as an Executive Assistant. In this role, I provided

523 technical and policy analyses on a broad spectrum of issues related to the electric,
524 gas, telecommunications and water utility industries.

525 In May 1996, I graduated from the University of Illinois at Springfield with a
526 Master of Business Administration degree.

527 In August 1997, I joined Brubaker & Associates, Inc. as a Consultant. Since
528 that time, I have participated in the analysis of various utility rate and restructuring
529 matters in several states and the evaluation of power supply proposals for clients. I
530 am currently an Associate in the firm.

531 The firm of Brubaker & Associates, Inc. provides consulting services in the
532 field of energy procurement and public utility regulation to many clients, including
533 large industrial and institutional customers, some utilities, and on occasion, state
534 regulatory agencies. More specifically, we provide analysis of energy procurement
535 options based on consideration of prices and reliability as related to the needs of the
536 client; prepare rate, feasibility, economic and cost of service studies relating to energy
537 and utility services; prepare depreciation and feasibility studies relating to utility
538 service; assist in contract negotiations for utility services; and provide technical
539 support to legislative activities.

540 In addition to our main office in St. Louis, the firm also has branch offices in
541 Phoenix, Arizona; Chicago, Illinois; Corpus Christi, Texas; and Plano, Texas.

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